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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,700	05/14/2001	Yutaka Ban	684.2673 DI	7113

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EXAMINER

BEATTY, ROBERT B

ART UNIT PAPER NUMBER

2852

DATE MAILED: 12/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/853,700

Applicant(s)

BAN ET AL.

Examiner

Robert Beatty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 37-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44-51 is/are allowed.
- 6) ☒ Claim(s) 37-43, 52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 09/099,032.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 25. 6) ☐ Other: \_\_\_\_\_

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1. Claims 37-41,43,52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 38-41,43,52 the applicant recites "said member" however in claim 37, from which claims 38-41,43,52 depend, the applicant recites two members (a capping member and a member) and therefore these claims are unclear.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 41-43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 37 recites a capping (sealing)member ( for example, reference 3 in Figs 5-6,8-9) and a (sliding) member (for example, shaft 2 and end portion 2a in Fig. 5) which are slidable relative to one another. See applicant's remarks page 9 of amendment filed 4/22/03). Claims 38-40 describe this same arrangement.

However, the applicant states that claims 41-42 describe Fig.39 and claim 43 describe Fig.40. See applicant's remarks page 9 of the amendment filed 10/16/03. However, it is unclear how "the [sliding] member" constitutes an inner wall portion wherein the capping member is rotatable supported by the inner wall portion. In other words, Fig.39 does not show an inner wall portion associated with the sliding member. Fig. 39 shows the sliding member having a feeding screw and capping member integral with the sliding member wherein the sliding member slides in a recess of part of the toner cartridge such that the sliding member/capping member move in a direction A so as to open the discharge opening.

Claim 43 states that the sliding member has a hole such that a shaft of the capping member slides within this hole so as to open and close the discharge opening as seen in Fig.40. However, that applicant states that when the discharge opening is opened (the capping member moves in a direction A) the shaft is fitted into the hole of the sliding member which is believed incorrect in that it appears the shaft is fitted into the hole of the sliding member when the opening is closed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 37,41,52 are rejected under 35 U.S.C. 102(b) as being anticipated by Kato et al.

Kato et al. teach a toner supply container 3 mountable to a developing device 4 of an image forming apparatus comprising a main body of the supply container configured to store toner, an opening 20 to permit discharge of toner, a capping member 21 for sealing (cap) the opening, and an end member 19. The capping member 21 and the end member 19 are slidable relative to one another for closing and opening the opening in the supply container. See Fig.5A, 5B. The opening 20 is located at a longitudinal end of the toner container as seen in at least Fig.2 and 4. In addition, member 19 can be considered as having an inner wall portion.

4. Claims 38-40,42-43 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

5. Claims 44-51 would be allowable over the prior art of record.

6. Applicant's arguments with respect to claims 37-51,52 have been considered but are moot in view of the new ground(s) of rejection.

Applicant amended the claims and added a new claim such that a new rejection was necessary.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Beatty whose telephone number is 703-308-1372. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley, can be reached on (703) 308-1373. The fax

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phone number for the organization where this application or proceeding is assigned is 703-872-9318 (before final) and 703-872-9319 (after final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

A handwritten signature in black ink, appearing to read "Robert Beatty", with a long, sweeping horizontal line extending from the end of the signature.

Robert Beatty  
Primary Examiner  
Art Unit 2852

December 17, 2003